



**Joint Committee on Financial Services**  
**S.B. 146/H.B. 804, *An Act Relative to Family Financial Protection***  
**October 27, 2015**  
**Testimony of Max Weinstein, Chief, Consumer Protection Division**  
**Office of the Attorney General**

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Chairmen Eldridge and Michlewitz, members of the Committee, thank you for the opportunity to testify today. My name is Max Weinstein, and I am Chief of the Consumer Protection Division in the Office of Attorney General Maura Healey. I am here today to testify on behalf of our Office in support of the Family Financial Protection Act, filed by Chairman Eldridge and Representative Brodeur.

A recent analysis by the Urban Institute demonstrated that 23% of Massachusetts residents – more than one and a half million people – have a debt in the collection process on their credit report. By definition, a debt in collection is old – the borrower has not made a payment in months, if not years, and the original creditor has charged off the account as a loss. When consumers are pursued for such old debts, they now typically face a new breed of publicly-traded, national corporations, whose only business is to buy deeply distressed debts for pennies on the dollar. These debt buyers then seek to collect the entire amount supposedly due on the account from ordinary consumers.

The Attorney General has made protecting the economic security of Massachusetts families a central strategic priority of her office. Because debt collection so often undermines that economic security, addressing unlawful and abusive debt collection practices is also one of our priorities. We regularly receive complaints from Massachusetts residents about this industry. In fact, since 2006 we have averaged approximately 1,300 complaints annually about the debt collection industry.

Our investigations into the debt collection industry have revealed that it is rife with error and abuse. Debt buyers pursue consumers for debts they do not owe, or seek to collect more than a consumer actually owes. Debt buyers pursue consumers for debts that are beyond our statute of limitations. Perhaps most troubling of all, debt buyers target the most vulnerable of our fellow citizens – the elderly, the disabled, and the desperately poor.

These problems arise, in part, because debt buyers pursue consumers years, sometimes even decades, after the consumer actually obtained credit in the first place. By this time, debt buyers frequently lack any records or documentation that would establish the existence and accuracy of their claims.

Moreover, debt buyers are inundating our courts with lawsuits to collect these old debts. In just the past few years, a handful of collectors have sued hundreds of thousands of Massachusetts consumers. These consumers frequently work minimum wage jobs, live on a fixed-income, are disabled or elderly, and so cannot appear in court, and cannot afford legal representation. The vast majority of the time, debt buyers obtain judgments in their lawsuits by default because the consumer does not or cannot come to court. After judgment, thousands of additional dollars in debt can accumulate at the statutory interest rate of 12 percent and the judgment can be enforced for twenty years.

State and federal agencies have received thousands of complaints relating to debt collection in Massachusetts in just the last twelve months. One consumer who spoke with our office was ninety years old and living on social security. She was nevertheless sued by a debt buyer for a debt that was more than ten years old. Too frail to attend court hearings, she was ultimately served with a capias civil arrest warrant, which threatened that a constable would take her into custody and forcibly bring her to court.

The Family Financial Protection Act would help prevent cases like these, and it addresses the worst debt collection abuses that Massachusetts consumers face. The Act would directly address the problematic collections on old, error-prone debts by imposing a three year statute of limitations on consumer debt collection actions – already the law in many states – and would extinguish the right to collect on a debt after the statute of limitations has expired. The Act would also prohibit collectors from seeking to extend the statute of limitations on old debts by harassing consumers into making small, nominal payments.

Moreover, the Act provides desperately needed relief to the poorest and most vulnerable Massachusetts citizens. Presently, our law exempts wages of only \$450 a week from garnishment by debt collectors. The Act would raise that amount modestly, to \$720 a week. For the sake of comparison, the fair market rent for a two-bedroom apartment in the Boston metro area is \$1,549, according to HUD.

The statutory rate of interest that applies to consumer debt collection judgments is very high at 12%. The Act would fairly compensate creditors for the time-value of money by instead fixing the rate to an index that reflects current interest rates.

Finally, the Act would rightly prohibit debt collectors from seeking capias civil arrest warrants, which in reality serve only to terrify and harass the most vulnerable consumers.

These and the Act's other common sense protections will help rein in many of the debt collection industry's most problematic practices. We also urge the committee to consider several additions to the bill, including a clarification of evidentiary standards in debt collection actions and a provision that a violation of this law would be a *per se* violation of the Consumer Protection Act, G.L. c. 93A.

Thank you again for the opportunity to testify before you today. As always, the Attorney General's Office is ready and available to work with you and your staff on this important legislation and to answer any questions.